

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H20-1143-20 **Applicant:** L Spriggs & N Johnson
Proposal: Proposed single storey rear extension
Location: 34 Baulkins Drove Sutton St James Spalding
Terminal Date: 27th January 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

Representations:

	Object	Support	No Obj.	Comments
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is an application to determine whether prior approval is required or not for proposed rear single storey extension to the property at 34 Baulkins Drove, Sutton St James, Spalding.

Site Description

The site forms part of a row of semi-detached properties onto the western bank of Baulkins Drove. The entire frontage development was subject to two cotemporary schemes for affordable housing back to 2000s.

The front site is currently laid in gravel. The rear garden is of decent size although both width and depth are not excessive. A 2 metre high standard timber closeboard fence enclose the rear area of the site with adjacent properties.

History

H20-0933-04 - Residential development. 8 affordable dwellings - Approved

H20-1221-05 - Erection of 8 affordable dwellings (outline H20/0933/04) - Approved

H20-1659-05 - Details of highway improvements (Condition 5 of H20/0933/04) - Refused

H20-0097-06 - Details of road specification, storage and disposal of refuse submitted (Conditions 5 and 7 of H20/0933/04) - Approved

Consultation Responses

North Level IDB

No comments.

Planning Considerations

Paragraph A.4(1) of Class A, Part 1, Schedule 2 of the General Permitted Development Order 2015 (as amended) (GDPO) states that "the following conditions apply to development permitted by Class A which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g)." These conditions set out the procedure for submitting an application for prior approval notification to the Local Planning Authority.

Paragraph A.1(g) of Class A, Part 1, Schedule 2 of the General Permitted Development Order 2015 (as amended) (GDPO) states that house enlargements not on article 2(3) land nor on a site of special scientific interest would not be permitted if "the enlarged part of the dwellinghouse would have a single storey and:

(i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height".

Regardless of the proposal compliance with prior approval criteria, extensive planning history of the application property has been comprehensively reviewed and it has come to the light that planning permitted development rights were withdrawn when permission was granted for the property.

Outline permission (H20-0933-04) was granted for 8 affordable dwellings. Subsequently, reserved matters were approved (H20-1221-05) for this residential scheme.

Condition 1 of H20-1221-05 sets out the following:

"Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995, (or any Order or Statutory Instrument revoking and re-enacting that Order), none of the following developments or alterations shall be carried out without the prior written approval of the Local Planning Authority:

(i) the erection of house extensions including dormer windows, conservatories, garages, car ports, porches or pergolas;

(ii) alterations including the installation of replacement or additional windows or doors and the installation of roof windows.

Reason: In the interests of visual and residential amenity.

This Condition is imposed in accordance with Policy E1 of the Adopted South Holland District Local Plan which establishes a broad range of assessment criteria to safeguard, enhance and maintain the amenities and interests of the locality."

For this reason, the proposed house extension subject to this current application cannot be approved. Prior approval is a planning consent type which is regulated by General Permitted Development Order and extant permission withdrew planning permitted development rights for the entire housing scheme including No. 34 (Plot 2 on determined plan Dwg. No. FB05-001/1)

Should you intend the development of any extension to this property, permission should be sought to the Local Planning Authority by the submission of a Householder Planning Application.

Conclusion

Planning permitted development rights were withdrawn on the extant permission ref. H20-1221-05. Therefore, permission to the proposals cannot be granted on the basis of Class A of Part 1 of Schedule 2 of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This application is accordingly refused.

Instead, full planning permission should be sought to the Local Planning Authority by the submission of a Householder Planning Application before the commencement of proposed works.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
- C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.